IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4219 of 2006()

CRA.234/2004 of ADDL.SESSIONS COURT, KOTTAYAM
CC.212/2003 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

.....

REVN. PETITIONER: APPELLANT/ACCUSED:

P.A. JOHNY,
PERUMPUZHAMOOLAYIL, HOUSE NO.X/93,
KOOTHRAPPALLY P.O., KARUKACHAL,
CHANGANACHERRY TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.JACOB GEORGE (PATHAZHAKKUZHIKAL)

RESPONDENTS: RESPONDENTS/STATE AND COMPLAINANT:

---

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. M.V. JOSHUA,
ARINJAKALLUMKAL HOUSE, PUTHANANGADI,
KOTTAYAM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.JOSE KURIAKOSE

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 29-11-2006 , THE COURT ON 29/11/2006 PASSED THE FOLLOWING:

K.Thankappan, J.

- -

Crl. R.P. No. 4219 of 2006

- -

Dated this the 29th day of November, 2006

O R D E R

Revision petitioner was the accused in C.C. No.212/2003 on the file of the Court of the Judicial First Class Magistrate-II (Mobile), Kottayam. The above complaint was filed by the 2nd respondent against the revision petitioner alleging the commission of offence punishable under section 138 of the Negotiable Instruments Act, 1881. To prove the case against the revision petitioner, the 2nd respondent adduced evidence himself as PW1 and produced Exts.P1 to P6. The allegation against the revision petitioner is that he issued a cheque for Rs.23,200/- to the 2nd respondent in discharge of his debt and when the cheque was presented for encashment, it was dishonoured for the reason of funds insufficient. On accepting the evidence adduced by the 2nd respondent, the trial court found the revision petitioner guilty of offence under section 138 of the Negotiable Instruments Act and he was convicted thereunder and sentenced to undergo simple imprisonment for three months. The trial court also directed him to pay compensation of Rs.25,000/- to the 2nd respondent under section 357(3) of Cr.P.C. and in default to undergo simple imprisonment for 15 days. Against the conviction and sentence passed by the trial court, the petitioner filed Crl.A.234/2004

before the appellate court. The appellate court, after hearing the appeal, confirmed the conviction and sentenced him to undergo simple imprisonment for one month and directed him to pay compensation of Rs.23,200/- to the 2nd respondent under section 357(3) Cr.P.C. and in default to undergo simple imprisonment for one month. Aggrieved by the above, the revision petition is filed for setting aside the conviction and sentence imposed by the appellate court in Crl.A.No.234/2004.

2. The revision petition is filed along with an application for condoning the delay in filing the revision. When notice in the application was served on the 2nd respondent, he appeared through counsel.

3. Heard.

4. Learned counsel on both sides submit that the matter is settled between the parties and the offence alleged against the revision petitioner may be compounded. In support of the above contention an affidavit has been filed by the 2nd respondent stating that the matter has been settled between the parties and the 2nd respondent had received the cheque amount from the revision petitioner. The 2nd respondent also seeks permission to compound the offence.

5. Having considered the averments contained in the affidavit filed by the 2nd respondent and having perused the records available, this Court is of the view that this is a fit case to compound the offence.

6. In the above circumstances, the offence charged against the revision petitioner under Section 138 of the Negotiable Instruments Act, 1881 is compounded. Hence, the petitioner shall be released forthwith unless required in any other case. It is made clear that this order of acquittal is passed as if it is an acquittal under the provisions of section 320(8) Cr.P.C.

K. Thankappan,
Judge.

K. Thankappan,J.

- - - - - - - - - - - - - - - -

Crl.R.P.4219 /2006

- - - - - - - - - - - - - - - -

Gist of the Judgment
29-11-2006